

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

FELICIA ROBINSON

PLAINTIFF

v.

CIVIL ACTION NO: 1:19-CV-00121-SA-DAS

WEBSTER COUNTY, MISSISSIPPI;
WEBSTER COUNTY SHERIFF'S DEPARTMENT;
TIM MITCHELL; SANTANA TOWNSEND;
DAREN PATTERSON; and JOHN DOES 1-30

DEFENDANTS

PLAINTIFF'S MOTION TO STRIKE INSUFFICIENT DEFENSES
OF WEBSTER COUNTY, MISSISSIPPI

COMES NOW, the Plaintiff, **FELICIA ROBINSON**, by and through the undersigned counsel, who respectfully moves to strike various defenses of Defendant **WEBSTER COUNTY, MISSISSIPPI** pursuant to Fed. R. of Civ. Proc. 12 (f) (2) because they are insufficient as a matter of law, and in support thereof states as follows, to-wit:

1. On June 17, 2019, the Plaintiff, **FELICIA ROBINSON**, filed her Complaint [Dkt. 1]. Therein, the Plaintiff cites to Exhibit D to Exhibit 1 of the Complaint ("Notice of Criminal Disposition") [Dkt 1-1]:

19. Patterson never posted bond. Therefore, Patterson remained in the legal and physical custody of the WCSD from May 30, 2018, to November 20, 2018.

*Figure 4—Exhibit D to Exhibit 1
(Notice of Criminal Disposition)*

V. Dates Confined 05/30/2018 to 11/20/2018 _____
to _____
Released on Bond Pending Appeal _____ to _____
Currently Housed In WEBSTER COUNTY JAIL _____

By way of this Notice of Criminal Disposition, which is signed by the Circuit Clerk and bears the Seal of the Circuit Court, the County represents that Daren Patterson was “confined” in the “Webster County Jail” from “5/30/2018 to 11/20/2018.”

2. On August 12, 2019, Defendant WEBSTER COUNTY, MISSISSIPPI (“County”) filed its Answer and Affirmative Defenses (“Answer”) [Dkt. 17]. Therein, the County responds to Plaintiff’s allegation in Paragraph 19 of the Complaint as follows:

<p>19. Patterson never posted bond. While out of jail, he held the status of an escapee. He was not in the custody of Webster County.</p>

Assorted variations of this defense are repeated throughout the Answer, including in, but not limited to, paragraphs 2, 3, 5, 9, 22, 24, 26-32, 34, 39, 63, 66, 69-71, 83, 85, and 88. Furthermore, the County articulates this defense affirmatively in the Eighth Defense, *viz.*:

<p style="text-align: center;">EIGHTH DEFENSE</p> <p>Patterson’s release was illegal. It was not the act of Webster County. It is not attributable to Webster County under state or federal law.</p>

3. Although the Answer does not describe the precise basis for the alleged illegality of Daren Patterson’s releases from the Webster County Jail on September 1, 2018, and November 2-3, 2018 (*i.e.*, the relevant dates in which the Complaint states he abused the Plaintiff), the County’s Motion for Judgment on the Pleadings [Dkt. 22] and the County’s Memorandum Brief [Dkt. 23] do. The Motion and Memorandum Brief also reiterate the relevant defenses in the Answer – *i.e.*, the Eighth Defense and the County’s various assertions that Patterson was an escapee, that he was not in custody, that his

releases were unlawful, that it is unlawful for a Mississippi Sheriff to release an inmate without bond, and other similar variations thereof.

4. Plaintiff respectfully submits that these defenses are insufficient as a matter of law pursuant to the doctrine of judicial estoppel because they assert legal positions contrary to one previously asserted by the County in the matter of *State of Mississippi v. Daren Patterson*, Webster County Circuit Court Cause No. CR2013-041, as evidenced by the information contained in the aforesaid Notice of Criminal Disposition. The County has represented to the Circuit Court that Daren Patterson was confined and in its custody on the dates referenced in the Complaint; now, the County argues that Patterson was illegally released and not in its custody at all.

5. The Plaintiff incorporates by reference her Memorandum of Authorities in support of her motion.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, FELICIA ROBINSON, respectfully moves to strike the aforesaid Eighth Defense (as well as any assertion that Patterson was an escapee, that he was not in custody when he committed the acts of abuse alleged in the Complaint, that his releases were unlawful, that it is unlawful for a Mississippi Sheriff to release an inmate without bond, or any similar variation thereof) from Defendant WEBSTER COUNTY, MISSISSIPPI's (1) Answer and Affirmative Defenses, (2) its Motion for Judgment on the Pleadings, (3) its Memorandum in Support of its Motion for Judgment on the Pleadings, and (4) any other pleading not mentioned pursuant to Fed. R. of Civ. Proc. 12 (f) (2) since the defenses are insufficient as a matter of law in view of the doctrines of judicial estoppel.

Further, the Plaintiff prays for general relief, whether legal or equitable that this Court deems meet and proper in the premises.

Respectfully submitted, on this the 28th day of August, 2019.

FELICIA ROBINSON

By: /s/Matthew D. Wilson
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CERTIFICATE OF SERVICE

I, Matthew D. Wilson, attorney of record for the Plaintiff, do hereby certify that I have this day caused a true and correct copy of the above and foregoing PLAINTIFF'S MOTION TO STRIKE INSUFFICIENT DEFENSES OF WEBSTER COUNTY, MISSISSIPPI to be delivered by the ECF Filing System which gave notice to all counsel of record who have appeared herein.

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**Attorneys for Defendants Webster County,
Mississippi; Webster County Sheriff's
Department; and Tim Mitchell and Santana
Townsend, in their official capacities only.**

I further certify that a true and correct copy of this motion was served on the following person via first-class, U.S. Mail, postage prepaid:

Santana Townsend, *pro se*
120 Figgatt Ave.
Eupora, MS 39744

Respectfully submitted, on this the 28th day of August, 2019.

/s/Matthew D. Wilson
Matthew D. Wilson